

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

STEPHEN M. MOBLEY, # 43369-061

PETITIONER

V.

CIVIL ACTION NO. 5:11cv135-DCB-MTP

ARCHIE LONGLEY, Warden

RESPONDENT

ORDER ADOPTING REPORT AND RECOMMENDATION

This cause is before the Court on Magistrate Judge Parker's Report and Recommendation [**docket no. 14**] that Petitioner's Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 be dismissed with prejudice. The Petitioner timely filed his objections thereto and has subsequently filed a Motion to Supplement Objections [**docket no. 19**], which the Respondent opposes. Having carefully considered the Report and Recommendation, the Petitioner's objections thereto, applicable statutory and case law, and being otherwise fully advised in the premises, the Court will adopt the Report and Recommendation and dismiss the habeas petition.

The Petitioner's objections are restatements of the two primary arguments contained in his opposition to Respondent's answer. First, he claims that he should have been allowed to analyze the contents of the cell phone and present that evidence at his disciplinary hearing. Second, he argues that he should have been provided with staff representation at his disciplinary hearing. This Court agrees with the Report and Recommendation that neither allegation amounts to a due process violation. See R & R at 6-7. The Petitioner does present a novel constructive-possession

argument in his Motion to Supplement, but the facts upon which the Petitioner's legal argument is based appear unsupported by the record. See Disciplinary Hearing Officer Report, docket no. 6-6. More importantly, the Petitioner's novel legal argument does not raise an independent due process violation. At most, the argument attacks the sufficiency of the evidence, and the Report and Recommendation correctly stated that there was enough evidence to support the finding of the disciplinary hearing officer. See R & R at 8-9.

Accordingly,

IT IS HEREBY ORDERED THAT the Report and Recommendation [docket no. 14] is **ADOPTED** in full. Petitioner's Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 is dismissed with prejudice. **IT IS FURTHER ORDERED THAT** Petitioner's Motion to Supplement Objections [docket no. 19] is **GRANTED** insofar as the Court has considered the arguments contained therein. A separate final judgment will issue forthwith dismissing the Petitioner with prejudice.

So **ORDERED**, this the 15th day of August, 2013.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE